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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,872	11/20/2003	Jeff Weller	061300-0789	5637
26371	7590	10/16/2006	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			LOWE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/716,872	Applicant(s) WELLER ET AL.	
	Examiner M. Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14-18, 26, 27 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-18, 26, 27 and 29-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/20/03, 8/3/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

***Election/Restrictions***

Applicant's election without traverse of Species B & D in the reply filed on 8/3/06 is acknowledged. Applicant cancelled the non-elected claims.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14,15,26, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 14,15,26, applicant states that each arm has two distal ends, however there can only be one distal end and one proximal end. For sake of examination it is assumed applicant meant one distal end and one proximal end.

Re claims 14,26, applicant states that the reinforcing steel creates a wear zone in an area not reinforced. This is not true since this non-reinforced "wear zone" is already there with or without the reinforcing steel.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,27,29,30,32-36, are rejected under 35 U.S.C. 102(b) as being anticipated by Young (US 5,722,810).

Re claims 1,2,27,29,30,32-36, Young teaches wheel-lift assembly for wreckers for towing a target automobile, the assembly comprising:

- a crossbar assembly 25;
- a pair of support arms 34A,34B, each of said support arms being movably attached to the crossbar assembly, the support arms being spaced apart from each other;
- a pair of actuating devices 36A,36B, connected to an outbound portion of said crossbar assembly, each of said actuating devices being operatively connected to one of said support arms; and
- a pair of over-center locking mechanisms 40A,40B, each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms.

Claims 1,8,9,27,29,34,35, are rejected under 35 U.S.C. 102(b) as being anticipated by Nolasco (US 6,139,250).

Re claim 1,27,29,34,35, Nolasco teaches wheel-lift assembly for wreckers for towing a target automobile, the assembly comprising:

- a crossbar assembly 12;
- a pair of support arms 20a,21a, each of said support arms being movably attached to the crossbar assembly, the support arms being spaced apart from each other;
- a pair of actuating devices 27,28, connected to said crossbar assembly, each of said actuating devices being operatively connected to one of said support arms.

Re claim 8, Nolasco teaches the actuating devices 27,28 being hydraulic cylinders.

Re claim 9, Nolasco teaches said crossbar assembly 25 includes a pivot C for mounting the target automobile on the wheel-lift assembly when the length of said target automobile is at an angle of about zero degrees to about ninety degrees from the length of said wrecker.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-18, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolasco (US 6,139,250).

Re claims 14-17, Nolasco teaches reinforcing material (18,19,22,23,etc.) proximate the ends of the arms, which in effect create a wear zone in areas not reinforced. Nolasco is silent on the type of material used, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the material steel for strength and cost considerations.

Re claim 18, Nolasco does not teach a specific strength but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have

Art Unit: 3652

made the strength 100ksi or any other amount in order to perform properly and handle heavy loads.

Claims 2,5-7,10,11,26,31,36-38, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolasco (US 6,139,250) in view of Young (US 5,722,810).

Re claims 2,38, Nolasco teaches wheel-lift assembly for wreckers for towing a target automobile, the assembly comprising:

a crossbar assembly 12;

a pair of support arms 20a,21a, each of said support arms being movably attached to the crossbar assembly, the support arms being spaced apart from each other;

a pair of actuating devices 27,28, connected to said crossbar assembly, each of said actuating devices being operatively connected to one of said support arms.

Nolasco does not teach over-center locking mechanisms. However, Young teaches a pair of over-center locking mechanisms 40A,40B, each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms in order to provide a safety mechanism (column 3, lines 64-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nolasco by the general teachings of Young to have a pair of over-center locking mechanisms each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms in order to provide a safety mechanism.

Re claim 5, Nolasco as already modified by Young teaches the crossbar

Art Unit: 3652

assembly comprising a crossbar and a pair of opposed grid boxes 16a,17a movably mounted to the crossbar;

wherein the support arms 20a,21a, are pivotally attached to the grid boxes; and

wherein each of the over-center locking mechanisms are disposed within one of the grid boxes.

Re claims 6,7, Nolasco as already modified by Young in claim 2 teaches the support arms 20a,21a are pivotally connected to the crossbar assembly 25; wherein each of the over-center locking mechanisms comprise a first 38 and a second 39 link, a first end of the first link 38 being pivotally connected to a first end of the second link 39, a second end of the first link being pivotally connected to the crossbar assembly 25, and a second end of the second link being pivotally connected to one of the support arms, and wherein one of the actuating devices is pivotally connected between the first and second ends of one of the links 38.

Re claims 10,36, Nolasco does not teach substantially fully enclosing each actuating device in a grid box. Young teaches substantially fully enclosing each actuating device in a grid box for safety. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nolasco by Young to substantially fully enclose each actuating device in a grid box for safety.

Re claim 11, Nolasco does not teach having and substantially fully enclosing over-center locking mechanisms in a grid box. However, Young teaches a pair of over-center locking mechanisms 40A,40B, each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms and substantially fully

Art Unit: 3652

enclosing the over-center locking mechanisms in a grid box in order to provide a safety mechanism (column 3, lines 64-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nolasco by Young to have a pair of over-center locking mechanisms, each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms and substantially fully enclosing the over-center locking mechanisms in a grid box in order to provide a safety mechanism.

Re claim 26,31, Nolasco does not teach having and substantially fully enclosing over-center locking mechanisms in a grid box. However, Young teaches a pair of over-center locking mechanisms 40A,40B, each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms and substantially fully enclosing the over-center locking mechanisms in a grid box in order to provide a safety mechanism (column 3, lines 64-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nolasco by Young to have a pair of over-center locking mechanisms, each connected to said crossbar assembly, to one of the actuating devices, and to one of said support arms and substantially fully enclosing the over-center locking mechanisms in a grid box in order to provide a safety mechanism.

Nolasco teaches reinforcing material (18,19,22,23,etc.) proximate the ends of the arms, which in effect create a wear zone in areas not reinforced. Nolasco is silent on the type of material used, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the material steel for strength



and cost considerations.

Re claim 37, Nolasco as already modified by Young teaches access panels (figure 3 of Nolasco, figures 6,8,etc., of Young).

Claims 3,4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolasco (US 6,139,250) in view of Holmes (US 4,958,980).

Re claim 3, Nolasco as modified does not teach a substantially L-shaped lifting arm having an extension arm segment and an engaging arm segment, said extension arm segment adjustably connected to a respective support arm, each of said engaging arm segments being substantially transverse to the extension arm segment. However, Holmes (figure 2) teaches a substantially L-shaped lifting arm having an extension arm segment and an engaging arm segment, said extension arm segment adjustably connected to a respective support arm, each of the arm segments being substantially transverse to the extension arm segment in order to facilitate easier wheel connections (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Nolasco by the general teaching of Holmes to have a substantially L-shaped lifting arm having an extension arm segment and an engaging arm segment, said extension arm segment adjustably connected to a respective support arm, each of the arm segments being substantially transverse to the extension arm segment in order to facilitate easier wheel connections.

Re claim 4, Nolasco as already modified teaches the extension arm segments

Art Unit: 3652

are slidably connected to the respective support arms.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl

  
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